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ABSTRACT

This report discusses the outcome of a study that investigated the policies of three states that require educational services for all students who are suspended or expelled. The state education departments in California, Hawaii, and Nebraska were asked whether they had special legislation which requires that any student who is suspended or expelled continues to receive educational services and if they collected data related to non-cessation of educational services. Results indicate that all three states have specific legislation requiring educational services and collect different types of information. The specific legislative language requiring educational services is provided for each state, along with the types of data that are collected. (CR)

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PROJECT FORUM

NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION, INC.

QUICK TURN AROUND

QTA - A BRIEF ANALYSIS OF A CRITICAL ISSUE IN SPECIAL EDUCATION

ISSUE: NON-CESSATION OF EDUCATIONAL SERVICES

JUNE 1999

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Quick Turn Around

Project FORUM

QTA - a brief analysis of a critical issue in special education

Issue: Non-Cessation of Educational Services **Date: June 1999**

Purpose

This QTA is a summary of information from three states regarding non-cessation of educational services following suspension or expulsion of a student. Also included is a description of related state data collection.

Background

The 1997 Amendments to the Individuals with Disabilities Education Act (IDEA) balances the need for safe schools for all children and the protection of the rights of children with disabilities to a free appropriate public education (FAPE) and procedural safeguards.

These amendments allow school personnel to order a change in placement to an interim alternative educational setting (IAES) for a student with a disability under certain circumstances. An IAES shall "*be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP;...*" [20 U.S.C. §1415 (k)(3)(B)(i)]

The term IAES related to students with disabilities first appeared in federal legislation in the 1994 Jeffords Amendment to the IDEA. This amendment allowed school personnel to place a student with a disability who was determined to have brought a weapon to school into an interim alternative educational setting for not more than 45 days. The term "weapon" meant "firearm" as defined in Section 921 of Title 18 of the United States Code.

The non-cessation of educational services for students with disabilities who have been suspended or expelled was further clarified in the final regulations for the 1997 Amendments, issued in the Federal Register on March 12, 1999. It states: "*After a child with a disability has been removed from his or her current placement for more than 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under §300.121...*" [34 C.F.R. §300.520 (1999)].

There is no comparable federal legislation mandating continued educational services for students without disabilities who are suspended or expelled. However, some states have passed legislation or have policies regarding non-cessation of educational services for <u>all</u> students.

Project FORUM Inquiry

At the request of the U.S. Secretary of Education, Project FORUM at the National Association of State Directors of Special Education (NASDSE) contacted a small group of states in February and March of 1999 regarding non-cessation of educational services for all students who are suspended or expelled. This was part of Project FORUM's Cooperative Agreement with the U.S. Department of Education's Office of Special Education Programs (OSEP). Three of the states contacted require continued educational services for these students—California, Hawaii, and Nebraska.

Specifically, two questions were asked: Does your state have legislation requiring that <u>any</u> student who is suspended or expelled continue to receive educational services? What data, if any, does your state collect related to non-cessation of educational services?

Inquiry Results

California

California is one of the states that requires non-cessation of educational services for all students. According to California's Education Code [Section 48915 (d)], "The governing board shall order a pupil expelled...to a program of study that meets all of the following conditions: (1) Is appropriately prepared to accommodate pupils who exhibit discipline problems. (2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school. (3) Is not housed at the school site attended by the pupil a the time of suspension." The governing board may require a pupil who has been expelled for reasons relating to controlled substances, to attend a county-supported drug rehabilitation program.

If an appropriate site is not identified away from a school, the expelled pupil may be referred to a school program; however, it "shall not be situated within or on the grounds of the school from which the pupil was expelled" [Section 48916.1 (c)]. In addition, pupils expelled from elementary school cannot be served in a program for pupils expelled from grades 7 through 12. If the local education agency (LEA) does not have an appropriate educational program for expelled pupils, the LEA may enter into an agreement with another LEA to provide educational services for these pupils.

Effective June 1, 1997, each LEA in California is required to collect the following data:

- Number of pupils recommended for expulsion
- Grounds for each recommended expulsion
- Whether the pupil was subsequently expelled
- Whether the expulsion order was suspended
- Type of referral made after the expulsion
- Disposition of the pupil at the end of the expulsion period

Beginning in the 1998-99 school year, California LEAs are required to collect the following additional data on students served under IDEA who are suspended or expelled:

- Discipline date(s)
- Type of disciplinary action
- Number of days suspended or expelled
- Reasons for disciplinary action (up to 3 reasons from 25 response choices)
- Where educational services are provided (17 response choices)

In California, these special education data can be linked to other special education data, such as type of services provided as specified on the individualized education program (IEP).

Nebraska

Effective July 1997, Nebraska LEAs are required to have "an alternative school, class or educational program...for all expelled students" [Nebraska Statute 79-266]. *Alternative schools, classes or programs* is defined as that special category of schools, classes or programs required by law to be provided for expelled students. LEAs may join together in providing alternative schools, classes or educational programs; or an LEA may, by agreement, with another LEA, send its suspended or expelled students to any alternative school, class or educational program already in operation by another LEA. The services may include, but are not limited to, individualized educational and counseling programs, community-centered classroom, or on-the-job training. Programs must enable the student to continue academic work for credit toward graduation.

If the LEA does not have an alternative school, class or educational program or an agreement with another LEA, a plan must be developed for the expelled student. This plan must specify the guidelines and consequences for behaviors, and identify educational objectives that must be achieved to receive credit towards graduation. The plan must also specify financial resources and community programs available to meet the educational and behavioral objectives identified. The student is required to attend monthly reviews to assess progress. If the parent or guardian refuses the alternative school, class or program, the LEA has no further obligation.

Nebraska collects district-level data required under the Gun Free Schools Act. There is no

student-level data on the nature of the educational services provided during suspension or expulsion. It is possible to determine, for example, how many students attend a special school for students with discipline problems, but not all students who attend such a school have actually been suspended or expelled. Student-level data are collected for those receiving services under IDEA, and the state is currently discussing the collection of data on the number of incidents per student, and the type and length of alternative program attended.

Hawaii

Hawaii's state law requires non-cessation of educational services for some types of suspensions. Specifically, the law states, "substitute activities or other appropriate assistance are provided, such as referral for appropriate intervention and treatment services, as determined by the principal in consultation with the school counselor" for all students suspended under Act 90 (i.e., possession of a dangerous weapon, switchblade knife, intoxicating liquor, or illicit drugs while attending school) [1996 Session Laws of Hawaii, as amended by Act 141, 1997]. This is applicable to students with and without disabilities. For students with an IEP who are expelled, the IEP team determines the substitute activities and appropriate assistance.

The following data are collected in Hawaii:

- Student's grade
- Student's age
- Act 90 offense
- Number of days suspended .
- Educational alternative (brief description)
- Referral for treatment/counseling (brief description)
- Other comments (e.g., eligibility for special education, number of offenses that school year)

Concluding Remarks

This information was intended to provide readers with a sample of the state legislation that mandates the continuation of educational services for all students suspended or expelled from school. These examples do not necessarily represent model legislation or best practices. For more information about Interim Alternative Educational Settings, see:

Bear, G. (1999). Interim Alternative Educational Settings: Related Research and Program Consideration. Alexandria, VA: Project FORUM at the National Association of State Directors of Special Education.

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IDEAs that Work
Office of Special Education Programs

Quick Turn Around

Project FORUM

QTA - a brief analysis of a critical issue in special education

Issue: Non-Cessation of Educational Services **Date: June 1999**

Purpose

This QTA is a summary of information from three states regarding non-cessation of educational services following suspension or expulsion of a student. Also included is a description of related state data collection.

Background

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This document is available in alternative formats. For details, please contact Project FORUM staff at 703-519-3800 (voice) or 7008 (TDD)

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